

# **JOURNAL OF PRIVATE AND PROPERTY LAW**

**Volume 18: Number 1, November, 2022**



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Faculty of Law  
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## **JOURNAL OF PRIVATE AND PROPERTY LAW**

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Journal of Private and Property Law,  
Department of Private and Property Law,  
Faculty of Law,  
Rivers State University,  
P.M.B. 5080  
Nkpolu, Port Harcourt,  
Rivers State, Nigeria.  
Email: [fca\\_legalchambers@yahoo.com](mailto:fca_legalchambers@yahoo.com)  
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## EDITOR'S NOTE

**I**t is gratifying to introduce this special edition of the Journal of Private and Property Law, Faculty of Law, Rivers State University. This edition is unique in that it is focused on Private and Property Law and provides answers to some of the very contemporary and intriguing questions in some of the recondite areas of that aspect of the law. The authors are endowed with appetite and capacity for exposition and enhancement of the law in this all-important-area of Law. The contributions also passed through the mills of seasoned academic peer review. There are ten (10) articles in this issue with great potentials for enriching the knowledge of the law and promotion of development in the country.

In the first article, **Izzi** focused on the right of women to property in Nigeria. The author recognized the universality of the right of everyone, male or female to own property. Nevertheless, the author looked at the obnoxious customs and practices that detract from this universal right albeit in favour of men. The author considered the treatment of widows and females under Islamic Customary Law which is rated better than most other customary laws. Property right is shown to be above ordinary right. It is regarded by the author as a “nostrum for societal identity, security, freedom and equality”. The author finally called for appropriate laws to address property right of women in Nigeria.

**Akolokwu** addressed the challenges of advancement of credit for the development of real property. Akolokwu notes the dire necessity for property development via credit financing by financial institutions and the adherence to international best practices in this regard as performance enhancer.

**Duson** made a foray into the legal protections available to Trademark owners as well as consumers against being served with counterfeit goods in Nigeria. The author pointed out the difficulty of sustaining a Trademark claim, especially, in view of the stringent requirement of proof of existence of reputation or goodwill in respect of unregistered Trademarks. The author canvasses adherence to international best practices and improvement of the provisions in the extant Trademark Legislation.

**George-Ibikiri and Nwauzi** investigate the guiding rules for succession to property right in

Nigeria and the right or place of the next-of-kin in the property right succession by beneficiaries. The paper highlights the fact that the processes of property right succession are driven by clear extant laws but calls for the possibility of according the next-of-kin beneficial status in property right succession consideration.

**Amadi, Azubuike and Duson** examined the viability and enforcement of secured lending transactions in Nigeria. They noted that the financial sector is key to the progress of the economy of Nigeria and must be sustained to avoid disastrous economic consequences. They pontificate that consent provisions, robust and effective mortgage enforcement mechanisms are the keys to viable and efficient secured lending in Nigeria.

**Okara and Frank-Igwe** addressed the legal propriety of the resolution of land disputes via customary arbitration. The authors while agreeing that customary arbitration is a major historical way of resolving land disputes, disagree with the pride of place given to oath-taking as a means of proof of title to land. They critically appraised the recent case of *Umeadi v. Chibunze (2020)10 NWLR (pt. 1733) 405, 429*, herein the Apex Court sanctioned successful oath-taking as a means of proving title to land. The duo expressed their concern about the process of arriving at the result of the oath-taking exercise. They fear the process may be tainted and see this as a red flag.

**Amadi and Agwor** exacerbated on current legal position on the transfer of interest in land and the requirement of the Governor's Consent bearing in mind and illuminating the epoch of the judicial authorities. The duo espoused the difference between transfer of interest in respect of land acquired for overriding purpose and transaction involving private individual which they contend is not caught by the strict consent requirement. In all, they argue that the extant Land Use Act regime is not intended to scuttle genuine transactions in land rather the enormous power of control and management of land vested in the Governor is utilitarian in nature and not obstructive.

**Onuoha and Omubo-pepple** addressed in an analytic manner the existence and effectiveness of equitable mortgage in Nigeria. The authors stressed the essence of the mortgagee's right to redemption *vis-à-vis* legal obstructions and restraints. They discussed what they termed 'the disjointed applicability of the doctrine of *lis pendens* in equitable Mortgages' which covers situation when a mortgaged property is equally a subject of litigation. In all, they advised for caution by parties in equitable mortgage dealings.

**Ekpo, Blessing, Ene, Enderly and Jack-Osimiri** focused on the effectiveness of Rent Review Clause in leases and for different accommodations. They exposed the difficulty at arriving at what the rent should be especially in a depressing economy. They interrogated this by a consideration of what is 'fair rent', 'market value' and 'reasonable rent'. They posited and bemoaned the adverse effect of the pervading erring economies to the investment fortune of property owners who are constrained to accept low rents.

**Nwokaeze, Wondikom and Baribefe-Koate** appraised the degree of sustainable agriculture through a systematic consideration of the legal framework and policies of Government. The viability of agriculture as a major mainstay of development and food security were harped on. The work canvassed realistic land reforms, improved agricultural practices and inclusiveness of relevant stakeholders in policy formulation and implementation as very indispensable for sustainable agricultural regime in Nigeria.

I think it is indubitable that the contributions and perspectives succinctly put forward in this edition are worthwhile. I appreciate very deeply the industry of the authors and committee of the editors in making this special edition a reality. I highly recommend the Journal to all.

